

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.

COUNSELLORS AT LAW

CHARLES C. CARELLA
JAN ALAN BRODY
JOHN M. AGNELLO
CHARLES M. CARELLA
JAMES E. CECCHI

DONALD F. MICELI
CARL R. WOODWARD, III
MELISSA E. FLAX
DAVID G. GILFILLAN
G. GLENNON TROUBLEFIELD
BRIAN H. FENLON
CAROLINE F. BARTLETT
ZACHARY S. BOWER+
DONALD A. ECKLUND
CHRISTOPHER H. WESTRICK*
STEPHEN R. DANEK
MICHAEL A. INNES
MEGAN A. NATALE

**5 BECKER FARM ROAD
ROSELAND, N.J. 07068-1739
PHONE (973) 994-1700
FAX (973) 994-1744
www.carellabyrne.com**

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PETER G. STEWART
FRANCIS C. HAND
JAMES A. O'BRIEN, III
JOHN G. ESMERADO
STEVEN G. TYSON
MATTHEW J. CERES
ZACHARY A. JACOBS***
JASON H. ALPERSTEIN++

OF COUNSEL

*CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY

**MEMBER NY BAR

***MEMBER IL BAR

+MEMBER FL BAR

++ MEMBER NY & FL BAR

RAYMOND J. LILLIE
GREGORY G. MAROTTA
KEVIN G. COOPER
MARYSSA P. GEIST
JORDAN M. STEELE**
BRIAN F. O'TOOLE
SEAN M. KILEY
ROBERT J. VASQUEZ
BRITTNEY M. MASTRANGELO

The Honorable Yvonne Gonzalez Rogers, U.S.D.J.
United States District Court for the Northern District of California
Oakland Courthouse
1301 Clay Street
Oakland, CA 94612

***In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation,*
Case No. 4:22-md-03047-YGR**

Dear Judge Gonzalez Rogers,

I respectfully seek appointment as a member of the Local Government Committee in the matter of *In re Social Media Adolescent Addiction/Personal Injury Products Liability Litig.*, No. 4:22-md-03047-YGR (N.D. Cal.). My firm, Carella, Byrne, Cecchi, Brody & Agnello, P.C. ("Carella Byrne") represents several New Jersey school districts within the broader Multi-District Litigation, including Irvington Public Schools, the School District of the Chathams, and Watchung Hills Regional High School. In addition, I have represented many other local governments from New Jersey in complex and important cases such as the opioids multi-district litigation (the "Opioid MDL"), many of which have already been retained by Carella Byrne for this case, or are considering filing actions.

In the Opioid MDL specifically, Carella Byrne was entrusted with prosecuting the public nuisance case against Walmart, the world's largest retailer and one of the most determined and entrenched defendants. After years of litigation, Walmart settled for over \$4 billion. Carella Byrne was also part of the trial team that achieved the first trial victory in federal court. To date, the plaintiffs in *National Prescription Opiate* litigation have secured settlements of over \$50 billion to be used solely to abate the ongoing opioid crisis. We are particularly proud of our achievements on behalf of public and government entities in the Opioid MDL and believe that experience will be valuable towards prosecuting public nuisance claims here.

Since entering private practice in 1994, after three years serving the public at the U.S. Attorney's Office in Newark, New Jersey, I have been appointed lead counsel, co-lead counsel, or as a committee member in some of the most important class actions across the Nation. I was appointed to the Steering Committee and served as Settlement Class Counsel in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.), which ended in a settlement excess of \$15 billion. I was also appointed to the Steering

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Committee and served as Settlement Class Counsel in *In re: Takata Airbag Products Liability Litigation*, MDL No. 2599 (S.D. Fla.), which has, to date, resulted in settlements in excess of \$1.5 billion. I also currently serve in leadership positions in several MDLs, including as sole lead counsel in two nationwide MDLs. These appointments, along with the numerous others included on the Carella Byrne Class Action resume, reflect the confidence that other federal courts have expressed regarding my skills and professionalism in handling large and important multi-district litigation.

This litigation involves legal questions of constitutional dimension, technology, and complex factual and expert inquiries. Given the size and complexity of this matter, we are eager to serve and assist the existing leadership in prosecuting this matter. In this MDL, Carella Byrne has already worked to move this matter forward efficiently. For instance, I organized and spearheaded the initial creation of the Government Entity Committee – many of those committee members are now seeking leadership appointments. Additionally, Carella Byrne assisted members of the Plaintiffs’ Executive Committee in dealing with government-specific issues, including drafting letters regarding preservation obligations and performing legal research specific to school claims and other government-specific issues. We believe that establishing a formal organizational framework—fully defining the roles of counsel and creating a dedicated subcommittee—will ensure that all Plaintiffs’ cases are prosecuted efficiently and effectively. Likewise, we are mindful that, if selected to serve, the subcommittee would work under the overall direction of existing lead counsel.

Below, I address the seven criteria outlined in Your Honor’s Order Setting Initial Conference (ECF No. 2) and explain why I will add significant value to the Local Government Committee based on my experience, my zealous and vigorous representation of clients and, equally important, my ability to work collegially with opposing counsel, not only in the litigation context but also in the settlement context.

(1) Professional experience in this type of litigation, including MDL experience as lead or liaison counsel and/or service on plaintiffs’ committees.

The Carella Byrne Concise MDL Resume (attached) includes this information. I have held leadership positions in many of the nation’s most complex and important consumer class actions advancing consumer rights in the last ten years. The most recent examples include: (1) *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*; (2) *In re Takata Airbag Product Defect Litigation*; (3) *In re National Prescription Opiate Litigation*; (4); *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation*; (5) *In re Mercedes-Benz Emissions Litigation*; (6) *In re Liquid Aluminum Sulfate Antitrust Litigation*; (7) *In re Volkswagen Timing Chain Product Liability Litigation*; and (8) *In re Insulin Pricing Litigation*.

(2) The names and contact information of judges before whom the applicant has appeared in the matters discussed above.

Please see the Concise MDL Resume (attached).

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(3) Willingness and ability immediately to commit to time-consuming litigation.

I would lead the team of attorneys from Carella Byrne working on this matter. Zachary Bower and Michael Innes – partners from Carella Byrne with substantial experience litigating public nuisance claims – have committed to work on this matter. The proposed team of attorneys from Carella Byrne each bring a unique skillset to the prosecution of class actions. Their combined experience and resources will aid the Class in this complex matter and will help ensure that the subcommittee has abundant expertise to deploy in an efficient and streamlined manner. The firm will commit time to this matter to the fullest extent necessary and will utilize the extensive resources—both financial and human—of Carella Byrne to work effectively with co-counsel and defense counsel to bring this litigation to an appropriate and just resolution..

(4) Willingness and ability to work cooperatively with other plaintiffs’ counsel and defense counsel.

Through my many leadership appointments, I have earned a reputation for the zealous and vigorous representation of my clients and, equally important, my ability to work collegially with opposing counsel, not only in the litigation context but also in the settlement context. This is an important data point because resolving a complex class action requires the trust not only of your co-counsel but also of your adversary. You need a good partner—on both sides of the caption—to achieve fair and balanced settlements. I value my reputation as a trustworthy partner in any negotiation. Still, I am, when appropriate, fully prepared to prosecute my cases through trial and appeal.

(5) Access to resources to prosecute the litigation in a timely manner.

Carella Byrne has financed and litigated some of the largest class actions in the country, demonstrating its willingness and ability to shoulder the burden of sustained litigation without the use of litigation funders.¹ The firm, for instance, has invested over \$4 million in the Opioid MDL. Our experience in these matters allows us to fully appreciate the commitment required to prosecute this case – a commitment which we look forward to meeting in light of the vital subject matter involved and its potential impact on current and future generations.

Moreover, Carella Byrne and its attorneys are prepared to prosecute their cases through trial and, as they did in two critical cases, to the United States Supreme Court, obtaining landmark decisions regarding preemption and statute of limitations. *See Merck Sharp & Dohme Corp. v. Albrecht*, 139 S. Ct. 1668 (2019); *Merck & Co., Inc. v. Reynolds*, 559 U.S. 633 (2010). Carella

¹ *See, e.g., Thomas v. Gerber Prod. Co.*, , 2012 WL 1606627, at *2 (D.N.J. May 8, 2012) (finding, in appointing Carella Byrne interim class counsel, that “[t]he resources counsel will commit to representing the class-including the significant financial and human resources available-is a factor satisfied through the firms’ well-established, respected and experienced attorneys as well as their ability to pool resources for a broad pool of putative class members”).

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Byrne is fully committed to this case and will devote the time and resources necessary to litigate it to a successful resolution whether by settlement or trial.

(6) Willingness to serve as lead counsel, member of a steering committee, or both.

I am applying for a position as member of the Local Government Committee; however, I would be honored to serve on the Plaintiffs' Steering Committee in any capacity that the Court determines would benefit the prosecution and resolution of this case.

(7) Any other considerations that qualify counsel for a leadership position.

Before entering private practice, I clerked for the Honorable Nicholas H. Politan in the District of New Jersey and then served as an Assistant United States Attorney ("AUSA") in Newark, New Jersey under the direction of United States Attorney Michael Chertoff. As an AUSA, I prosecuted numerous complex criminal matters, including international money laundering cases, drug smuggling cases, gun trafficking cases, and political corruption. In both of these experiences, I developed skills as an effective trial advocate and as a dogged investigator—skills that have proven immensely valuable in complex MDL cases. Drawing on these skills, my team and I have repeatedly demonstrated our willingness and ability to dive deep into discovery in these large cases and help organize and synthesize the massive amounts of information crucial to understanding and resolving these matters.

In conclusion, my experience in other cases of national significance has prepared me and my team for the unique challenges that are sure to arise here, both in the litigation context and in any potential resolution on behalf of government entities nationwide. Negotiating and securing 100% participation of local New Jersey governments in the Opioid MDL settlement specifically taught us important lessons in achieving a favorable result that is likely to be approved by local government entities. If appointed in this case, I believe this experience, particularly in light of the recent entry of the State Attorney Generals, will provide significant value towards moving any potential resolution over the finish line. Indeed, I have represented not only the New Jersey Attorney General and State Government in a variety of matters, but also the State of Florida and Commonwealth of Virginia in complex matters addressing the right of escheat and unclaimed settlement funds in class cases.

The attorneys at Carella Byrne thank the Court for its consideration of our application and look forward to answering any questions you may have regarding our clients in Social Media and our commitment to this case.

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.

/s/ James E. Cecchi
JAMES E. CECCHI